

**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**
(Criminal Jurisdiction)

Criminal
Case No. 22/1557 SC/CRML

PUBLIC PROSECUTOR

v

GEORGE RANGONMAL

Date: 16 December 2022
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mrs B. Tamau
Defendant – Mr H. Vira

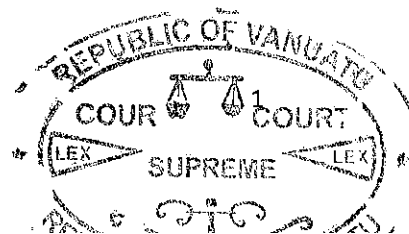
SENTENCE

A. Introduction

1. The accused George Rangonmal was convicted after trial of indecency without consent where the consent was obtained by fear of bodily harm.

B. Facts

2. At the time of the offending, the complainant DK (name suppressed) was 20 years old and a student at INTV.
3. DK was living under the care and protection of her mother and Mr Rangonmal who is the mother's *de facto* partner hence Mr Rangonmal is DK's step-father.
4. Prior to the offending, DK's mother and Mr Rangonmal were unhappy with DK as they found out that she was having a relationship with a young man residing at Fresh Wota 5 area.
5. On 30 March 2019, Mr Rangonmal told DK to follow him away from their house at Ifira Point, Efate along a footpath leading to the main road where they would catch a bus to town.
6. As they were walking along, Mr Rangonmal asked DK repeatedly if she liked her boyfriend. She said yes. He also asked her whether she had had sex with her boyfriend. She said yes.
7. Mr Rangonmal told DK to follow him into the bush. She did.



8. Mr Rangonmal sat behind a rock and again asked DK if she loved her boyfriend. She said yes.
9. He asked her again if she had had sex with her boyfriend. She said yes.
10. Mr Rangonmal told DK to remove her pants and sit on the ground facing him.
11. When she sat down, he touched her vagina with his hands. DK did not agree to Mr Rangonmal touching her vagina. She was crying and Mr Rangonmal saw that she was crying. She wanted to tell Mr Rangonmal that she did not agree but did not do so as she was too scared of what he might do to her. In her panic and fear, she stayed silent and did what Mr Rangonmal told her to.
12. Mr Rangonmal then told DK to put her pants back on and they walked back to the road.
13. As soon as DK had the opportunity to flee from Mr Rangonmal, she did. When they reached the main road, and were walking along on opposite sides of the road, she sprinted away the moment she judged that she could do so and he would not be able to catch her. She left her sandals so as not to weigh her down and ran to her aunty and uncle.
14. Mr Rangonmal admitted the offending to the Police. He stated that DK agreed for him to touch her. He also told the Police that he knew what he did was wrong.

C. Sentence Start Point

15. The sentence start point is assessed having regard to the maximum sentence set by Parliament, and the mitigating and aggravating factors of the offending.
16. The maximum penalty for the offending is 7 years imprisonment (s. 98(b)(ii)), *Penal Code* [CAP. 135]).
17. There are no mitigating aspects of the offending.
18. The offending is aggravated by the following:
 - a. Serious breach of trust;
 - b. Pre-meditation and planning; and
 - c. The effect on the complainant including the indignity suffered and her continuing fear of the defendant.
19. Taking all matters into account, the sentence start point adopted is 3 years 4 months imprisonment.

D. Mitigation

20. Mr Rangonmal is 45 years old. He is married and has 4 children (3 in primary school and one in junior secondary school).

21. He is self-employed in the construction business. His *de facto* partner is unemployed. His family are reliant on him for their daily living.
22. He has no previous convictions.
23. Mr Rangonmal performed a custom reconciliation ceremony with the complainant and her uncle involving VT3,000 and a mat. This was accepted by DK and her uncle.
24. Four months is deducted from the sentence start point for Mr Rangonmal's personal factors.
25. Mr Rangonmal has served 33 days in custody, effectively 2 months imprisonment. A further 2 months are deducted from the sentence start point.

E. End Sentence

26. The sentencing principles applicable in this case are holding Mr Rangonmal accountable for his conduct, to denounce the criminal conduct and emphasize public disapproval of such offending, to protect the community, and to deter him and others from acting in this manner in future.
27. Taking all of those matters into account, the end sentence imposed is 2 years 10 months imprisonment.

F. Suspension of Sentence

28. It would be entirely wrong to suspend this sentence in whole. However, I am prepared to suspend part of the sentence in view of Mr Rangonmal's previous clean record, his responsibilities to his construction business and to his young family, and prospects of rehabilitation. Mr Rangonmal is to serve 4 months of his imprisonment sentence. I suspend the remaining 2 years 6 months of Mr Rangonmal's imprisonment sentence for 2 years. Mr Rangonmal is warned that if he offends again within that 2-year period that he will need to serve the remaining 2 years 6 months of this sentence in addition to any other penalty that may be imposed on him for the further offending.
29. This sentence of imprisonment may not be enforced until the time of appeal against sentence has expired or Mr Rangonmal earlier elects to begin serving his sentence: s. 50 of the *Penal Code*.
30. Mr Rangonmal has 14 days to appeal.

DATED at Port Vila this 16th day of December 2022
BY THE COURT


Justice Viran Molisa Trief

